IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.R.UDAYABHANU

TUESDAY, THE 10TH APRIL 2007 / 20TH CHAITHRA 1929

Crl.Rev.Pet.No. 1045 of 1999

CRA.25/1997 of SESSIONS COURT, KOLLAM
CC.131/1993 of JUDL.MAGISTRATE OF FIRST CLASS-I, KOTTARAKKARA
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REVN. PETITIONER:

KRISHNANKUTTY, S/O. KOCHURAMAN
KOTTOTHARA VEEDU,
ERUVAKIZHAKKUM MURI, PATHIYOOOR VILLAGE,
KARTHIKAPPALLI.

BY ADV. SRI.PRASAD MATHEW
SMT.BEENA JOHN

RESPONDENTS:

STATE OF KERALA REPRESENTED BY THE
PUBLIC PROSECUTOR, HIGH COURT OF KERALA.

BY PUBLIC PROSECUTOR SMT. LATHA THANKAPPAN

THIS CRIMINAL REVISION PETITION HAVING BEEN FINALLY HEARD ON 10/04/2007, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

ORDER ON CRL.M.P. NO. 4815/1999 IN CRL.R.PLP. NO. 1045/1999

DISMISSED.

10-4-2007 SD/-K.R.UDAYABHANU, JUDGE

TRUE COPY

P.S.TO JUDGE

K.R. UDAYABHANU, J.

CRL.R.P.NO.1045 of 1999

DATED THIS THE 10th day of April 2007

ORDER

The revision petitioner stands convicted for the offence under Sections 279, 337 and 304 (A) of the Indian Penal Code and sentenced to pay a fine of Rs.1000/- and in default to undergo rigorous imprisonment for six weeks for the offence under Section 279 I.P.C.; to pay fine of Rs.500/- for the offence under Section 337 I.P.C. and in default to undergo rigorous imprisonment for one month and to undergo rigorous imprisonment for one year and to pay a fine of Rs.5000/- for the offence under Section 304(A) I.P.C. and in default to undergo rigorous imprisonment for four months. The prosecution case is that on 2-2-1992 at about 5.30 p.m. the accused drove a K.S.R.T.C. Fast Passenger bus registration No. KL-15/06 57 (TR 625) in a rash and negligent manner through the Kollam-Shencotta public road from west to east and the bus when reached at Plamoodu Junction, it ran over persons waiting on

the road margin and the same was resulted in the death of two ladies, aged 36 and 58 years respectively on the spot and also resulted in injuries to PWs.1 and 2.

2. The evidence adduced in the case consisted of the testimony of PWs.1 to 19 and Exts.P1 to P14 and MOs.1 and 2 . Of the occurrence witnesses, PWs.1 to 3 have supported the prosecution version. They have emphatically denied the suggestion in the cross examination that it was in order to avert the head on collision with the bus that was coming in the opposite direction the accused swerved the vehicle towards left. PWs.1 and 2 were also injured in the incident. PWs.3, 4 and 5, of course, did not support the prosecution. The evidence of the test report of the vehicles and that of the Motor Vehicle Inspector, i.e. PW9 do establish the fact that the vehicle had no mechanical defect. The accused have been identified by PWs.1 and 2. It is the contention of the counsel for the revision petitioner that the courts below have totally gone wrong from the very beginning as both the courts below have mentioned that the bus was proceeding from east to west. I find that

nothing turns out on the submissions as evidently the same is only a mistake that instead of mentioning from west to east while reciting the prosecution allegation the courts below inadvertently mentioned as from east to west. Evidently the incident has taken place at a spot after a curve. The circumstances clearly show that the accused was driving the bus in excessive speed and as a result of the same he could not control the vehicle and the bus ran over the deceased persons who were standing on the road side to board the bus.

3. On a perusal of the evidence adduced in the matter, I find that the courts below have rightly held that the accused is guilty of the offence alleged. Hence, I find no reason to interfere in the findings of the courts below. he conviction is confirmed.

Counsel for the revision petitioner has pleaded for leniency pointing out that the incident has taken place in 2-2-1992 and that more than 15 years has elapsed since the incident and so far the accused was facing the criminal proceedings and that right now he is retired and that he is ailing. In the circumstances, the sentence imposed under Section 304(A)I.P.C.

is modified to imprisonment till the rising of the court and to pay a compensation of Rs.35,000/- each vide Section 357(3) Cr.P.C. to the legal heirs of the deceased Suymangala and Thankamma and in default to undergo simple imprisonment for six months. No separate sentence is awarded for the rest of the offences. The revision petitioner is granted three months time to deposit the amount of compensation of Rs.70,000/-. The revision petitioner shall appear before the Judicial Magistrate of the First Class-I, Kottarakkakra on 25-7-2007 to receive sentence. The Crl.revision petition is disposed of accordingly.

K.R.UDAYABHANU, JUDGE

ks.

K.R.UDAYABHANU, J

CRL.R.P.NO.857 of 1999

ORDER

10-4-2007